

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WPEM, LLC,

Plaintiff,

v.

SOTI INC.,

Defendant.

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Case No. 2:18-cv-00156-JRG

JURY TRIAL DEMANDED

**SOTI’S RESPONSE TO WPEM’S MOTION TO DISMISS WITH PREJUDICE
AND MOTION TO DISMISS WITHOUT PREJUDICE**

Defendant SOTI Inc. (“SOTI”) files this Response to Plaintiff WPEM, LLC’s (“WPEM”) Opposed Motion to Dismiss (“Motion to Dismiss”) (Dkt. No. 28). Despite the “opposed” characterization of WPEM’s Motion to Dismiss, SOTI does not oppose dismissal of WPEM’s claims against SOTI *with prejudice*. Further, SOTI moves the Court to dismiss, *without prejudice*, its claims against WPEM, including its counterclaims and declaratory judgment actions of non-infringement and invalidity (*see* Dkt No. 10). However, SOTI does not believe each Party should bear its own costs and fees.

Concurrent with this filing, SOTI, as a “prevailing party” under 35 U.S.C. § 285, is filing a motion for leave (“Motion for Leave”), requesting permission from the Court to file a motion to recover attorneys’ fees pursuant to 35 U.S.C. § 285. In its Motion for Leave, SOTI outlines the reasons why this case qualifies as exceptional under Section 285.

Accordingly, SOTI respectfully requests that the Court dismiss WPEM’s claims *with prejudice* and dismiss SOTI’s claims *without prejudice*.

Date: November 20, 2018

Respectfully submitted,

By /s/ Robert Greeson

Robert Greeson

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ATTORNEYS FOR DEFENDANT SOTI INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 20, 2018, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via CM/ECF. Any other counsel of record will be served in accordance with the Federal Rules of Civil Procedure.

/s/ Robert Greeson

Robert Greeson